

REMARKS

Overview

Claims 1-6, 8-11 and 18-21 are pending in this application. Claims 1-6 and 18-21 have been amended. The present response is an earnest effort to place all claims in proper form for immediate allowance. Reconsideration and passage to issuance is therefore respectfully requested.

Claim Rejections

Claims 1-5 and 18-21 have been rejected under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. In particular, the Examiner questions whether these claims are directed towards the outer container or a combination of the inner and outer containers. Applicant has amended independent claims 1 and 18 so as to be directed towards a container assembly with outer and inner containers, similar to independent claim 6. Thus, claims 1-5 and 18-21 are directed towards the combination of inner and outer containers. Accordingly, Applicant respectfully requests that the § 112 rejection be withdrawn in view of this amendment.

Independent claim 18 has been rejected under 35 U.S.C. § 102 as being anticipated by Witthoeft. Claims 1 and 2 have been rejected under § 103 as being obvious over Witthoeft in combination with Blessing. Claim 3 has been rejected under § 103 based upon the combination of Witthoeft, Blessing and Jamison. Claims 1, 4, 5 19 and 20 have been rejected under § 103 as being obvious over Witthoeft in view of Bonner. Claims 6, 8 and 9 have been rejected under § 103 as being obvious over Witthoeft and Jones. Claim 21 has been rejected under § 103 as being

obvious over Witthoeft in view of Jamison. Applicant respectfully traverses these rejections, and requests reconsideration of the claims.

Claims 10 and 11 have been deemed allowable.

Independent claim 1 has been amended to provide that the first and second flaps are moveable from an open position free from covering relation over the open upper end of the outer container to a closed position wherein the flaps "partially cover the open upper end of the outer container while maintaining a space between the flaps wherein the inner container resides". This is best seen in Figure 3 of the drawings, wherein the inner container 14 resides between the flaps 64 on opposite ends of the outer container. This limitation is not met by the cited references, alone or in combination.

More particularly, the Witthoeft patent shows flaps 16, 18 which fully close the upper end of the outer container, as shown in Figures 1-3. There is no space wherein the inner container 40 resides between the flaps 16 and 18, as required by amended claim 1. Therefore, claim 1 distinguishes over Witthoeft.

None of the secondary references overcome this deficiency of Witthoeft. The Jamison patent shows a pair of flaps or sections 11, 12 for a bi-fold lid 10 which fully cover the upper end of the container when the flaps 11, 12 are closed. Bonner does not disclose any flaps for closing the open upper end of the container. Jones does not appear to show any flaps for partially covering the upper end of the container. Blessing has a lid 18 which fully closes the upper end of the inner container, but does not partially close the upper end of the outer container or provide space wherein the inner container resides.

Therefore, claim 1 sets forth unique structure, operation and results which is not taught or suggested by the cited references, so as to be in proper form for allowance. Claims 2-5 depend from claim 1 and should be allowable as depending from an allowable base claim.

Independent claim 6 has been amended to provide that the inner container is not covered by the flaps when the flaps are in the closed position. The Witthoeft patent has inner containers 40 which are fully covered by the flaps 16, 18 on the outer container. None of the secondary references disclose an outer container with flaps which move between open and closed positions, and with an inner container that is not covered by the flaps in the closed position. Therefore, claim 6, and depending claims 7-11, distinguish over the cited references so as to be allowable.

Independent claim 18 has been amended to provide that the inner container have a cover residing above the outer container when the flaps are in the closed position. In Witthoeft, the inner containers 40 do not have any cover, and particularly no cover which resides above the outer container when the flaps 16, 18 of the outer container are closed. The Jamison, Bonner and Jones references do not disclose any inner container with a cover. While Blessing discloses an inner container with a lid 18 residing above the outer container, the outer container of Blessing does not have any flaps which move between open and closed positions. There is no teaching, suggestion, or motivation for combining Blessing with Witthoeft.

Therefore, claim 18 and depending claims 19-21 set forth unique structure which is not satisfied by the cited references, alone or in combination. Accordingly, claims 18-21 are in proper form for allowance.

Conclusion

In view of the foregoing, Applicant respectfully requests that a Notice of Allowance be issued.

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,



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